

§ 36C-8-816. Specific powers of trustee.

Without limiting the authority conferred by G.S. 36C-8-815, a trustee may:

- (1) Collect and control trust property and accept or reject additions to the trust property from a settlor or any other person;
- (2) Invest and reinvest trust property as the trustee considers advisable in accordance with the trust, and to acquire or sell property, for cash or on credit, at public or private sale;
- (3) Exchange, partition, or otherwise change the character of trust property;
- (4) Deposit trust money in an account in a regulated financial services institution, including an institution operated by the trustee or an affiliate of the trustee upon compliance with any applicable requirements for the deposit;
- (5) Borrow money, with or without security, including from a corporate trustee's lending department, renew or modify loans, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;
- (6) With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, venture, agricultural operation, or other form of business or enterprise, form and transfer, assign, and convey to that form of business or enterprise all or any part of the trust property in exchange for the stock, securities, or obligations of that form of business or enterprise, continue any business or other enterprise, and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization, or contributing additional capital;
- (7) With respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:
 - a. Vote, or give general or limited proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement, or execute waivers, consents, or objections with respect to those securities;
 - b. Hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;
 - c. Pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights;
 - d. Deposit the securities with a depository or other regulated financial service institution; and
 - e. Consent, directly or through a committee or other agent, to the merger, consolidation, reorganization, readjustment of capital or financial structure, lease, sale, dissolution, or liquidation of a business enterprise, and elect whether to participate as a member of a class in any litigation involving the securities;
- (8) With respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing party walls or buildings or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries, make contracts, licenses, leases, conveyances, or grants of every nature and kind with respect to crops,

- gravel, sand, oil, gas, timber and forest products, other usufructs or natural resources, and other benefits or incidents of the real property;
- (9) Enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;
 - (10) Grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;
 - (11) Insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust at the expense of the trust;
 - (12) Abandon, relinquish any or all rights to, or decline to administer property of no value or of insufficient benefit or value to the trust to justify its collection or continued administration;
 - (13) With respect to possible liability for violation of environmental law:
 - a. Inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;
 - b. Take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;
 - c. Repealed by Session Laws 2009-48, s. 17, effective October 1, 2009, and applicable to renunciations and powers of attorney executed on or after that date.
 - d. Compromise claims against the trust that may be asserted for an alleged violation of environmental law; and
 - e. Pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;
 - (14) Pay or contest any claim, compromise, adjust or otherwise settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;
 - (15) Pay from the trust property taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust and the protection of the trust property;
 - (16) Exercise elections with respect to federal, state, and local taxes including, but not limited to, considering discretionary distributions to a beneficiary as being made from capital gains realized during the year;
 - (17) Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights under that plan, annuity, or life insurance, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;
 - (18) Make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the

circumstances, and acquire a lien on future distributions for repayment of those loans;

- (19) Pledge trust property to guarantee loans made to any beneficiary;
- (19a) Guarantee loans made to any beneficiary;
- (19b) Pledge trust property to guarantee loans made to any proprietorship, partnership, limited liability company, business trust, corporation, venture, agricultural operation, or other form of business or enterprise in which the trust or any beneficiary has an ownership interest.
- (19c) Guarantee loans made to any proprietorship, partnership, limited liability company, business trust, corporation, venture, agricultural operation, or other form of business or enterprise in which the trust or any beneficiary has an ownership interest.
- (20) Appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, limit those powers the appointed trustee may exercise and the duties for which the appointed trustee is responsible, require that the appointed trustee furnish security, and remove any trustee so appointed;
- (21) Pay an amount distributable to a beneficiary regardless of whether the beneficiary is a minor or incompetent or whether the trustee reasonably believes the beneficiary to be incompetent, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or if the beneficiary is a minor or incompetent or a person the trustee reasonably believes to be incompetent, by:
 - a. Paying it to the beneficiary's general guardian or the guardian of the beneficiary's estate;
 - b. Paying it to a custodian under a uniform transfer to minors act or custodial trustee under a uniform custodial trust act and, for that purpose, creating a custodianship or custodial trust for the benefit of the beneficiary;
 - c. Paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or
 - d. Managing it as a separate fund on the beneficiary's behalf.A trustee making payments under this subdivision does not have any duty to see to the application of the payments so made, if the trustee exercised due care in the selection of the person, including a minor or incompetent, to whom the payments were made, and the receipt of that person shall be full acquittance to the trustee. Notwithstanding the foregoing, if a mandatory distribution is to be paid to a beneficiary who is not a minor or incompetent or a person the trustee reasonably believes to be incompetent, the distribution may be applied for the beneficiary's benefit only with the beneficiary's consent;
- (22) On distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares without regard to the income tax basis or other special tax attributes of the assets, as the trustee finds to be most practicable and for the best interests of the distributees, value the trust property for those purposes, and adjust for resulting differences in valuation;

- and to distribute trust property in kind or in cash, or partially in kind and partially in cash, in divided or undivided interests;
- (23) Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;
 - (24) Prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;
 - (25) Make, execute, and deliver contracts and other instruments, including instruments under seal, that are useful to achieve or facilitate the exercise of the trustee's powers;
 - (26) On termination of the trust, exercise all of the powers otherwise exercisable by the trustee during the administration of the trust, including, without limitation, the trustee's investment powers, the power to sell assets, and the powers set forth in subdivision (22) of this section, and exercise the additional powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it;
 - (27) Employ as advisors or assistants in the performance of administrative duties, or delegate administrative duties in the manner provided in G.S. 36C-8-807, to persons, firms, and corporations, including agents, auditors, accountants, brokers, attorneys-at-law, attorneys-in-fact, investment advisors, appraisers, custodians, rental agents, realtors, and tax specialists;
 - (28) Bid on property at a foreclosure sale, or acquire property from a mortgagor or obligor without foreclosure, and retain the property so bid on or taken over without foreclosure;
 - (29) Divide one trust into several trusts and make distributions from those trusts in the manner provided in G.S. 36C-4-417;
 - (30) Request an order from the court for the sale of real or personal property under Article 29A of Chapter 1 of the General Statutes, or for the exchange, partition, or other disposition or change in the character of, or for the grant of options or other rights in or to, such property;
 - (31) Distribute the assets of an inoperative trust consistent with the authority granted under G.S. 28A-22-10;
 - (32) Renounce, in accordance with Chapter 31B of the General Statutes, an interest in or power over property, including property that is or may be burdened with liability for violation of environmental law; and
 - (33) Obtain any digital assets, as provided in Chapter 36F of the General Statutes, including catalogues and content, and to request and authorize disclosure of the digital assets. (2005-192, s. 2; 2007-106, s. 37; 2009-48, ss. 16, 17; 2009-222, s. 3; 2011-339, s. 4; 2013-91, s. 2(c); 2016-53, s. 9; 2017-25, s. 3.)